

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.2498 of 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.51,000/- as compensation for the injuries sustained by the petitioner in a road accident, by the order dated 02.05.2008, in M.V.O.P.No.161 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Guntur (for short, the Tribunal'), as against the claim of Rs.1,50,000/- laid under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2, who are the owner and insurer of the car bearing registration No. AP 9 E 6645, respectively, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Heard Sri B.Parameswara Rao, learned counsel for the appellant, and Smt. A.Jayanthi, learned counsel for respondent No.2. Though, service was completed on respondent No.1, none appears for him.

5. The Tribunal, having noted that the driver of the accident vehicle did not possess valid subsisting driving licence at the time of the accident, recorded a finding to that effect and gave a direction to respondent No.2 – insurer to initially pay the amount and recover the same from respondent No.1, who is the owner of the accident vehicle. The Tribunal has determined the compensation of Rs.51,000/- appreciating the evidence of P.W.2, the Medical Officer. In arriving at so, the Tribunal has granted Rs.20,000/- towards pain and suffering, Rs.10,000/- towards medical expenses, Rs.3,000/- towards extra-nourishment, Rs.1,000/- towards transportation, Rs.2,000/- towards loss of income during the period of treatment and Rs.15,000/- towards permanent disability, thus, making a total sum of Rs.51,000/- as compensation with interest at 7.5% per annum.

6. In the grounds of appeal, the petitioner stated that she has been suffering with restriction of left knee movement after 90 degrees and terminal degrees of left hip movement, having undergone surgical intervention for the fracture of left femur, and the Tribunal did not properly appreciate the inconvenience to which she has been put and would be put throughout rest of her life and, therefore, sought to grant an amount of Rs.1,50,000/-, which was the claim she made.

7. The evidence of P.W.2 – Medical Officer would show that the petitioner was operated on 23.09.2006 with interlocking nailing and was discharged on 03.10.2006 with an advice to follow up treatment.

8. Though, the disability certificate was not filed, still the Tribunal has awarded Rs.15,000/- towards permanent disability, perhaps basing on the evidence of P.W.2, but, of course, even percentage of disability spoken to by P.W.2 is not reflected in the order while discussing the evidence of P.W.2. Even otherwise, when there is restriction of 90 degrees of left knee, it amounts to partial permanent disability and, therefore, the amount of Rs.15,000/- granted by the Tribunal towards permanent disability has to be maintained and is, accordingly, maintained.

9. The amount of Rs.20,000/- granted by the Tribunal towards pain and suffering is enhanced to Rs.30,000/-, and Rs.3,000/- granted towards extra-nourishment is enhanced to Rs.5,000/-. Towards loss of temporary earnings, the Tribunal granted Rs.2,000/- and, when kept in view, the age of the petitioner being 32 years and the injury sustained by her was to one of the main lower limbs and as she must be pursuing some occupation, certainly, she is entitled to Rs.9,000/- @ Rs.1,500/- per month for a period of six months and, thus, the amount of Rs.2,000/- granted under the said head is enhanced to Rs.9,000/-. The other amounts granted by the Tribunal i.e., Rs.10,000/- towards medical expenses and Rs.1,000/- towards transportation, are maintained.

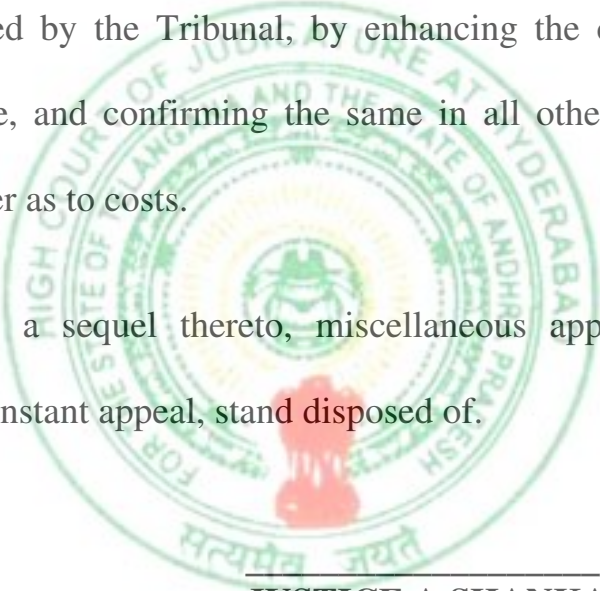
10. Thus, the petitioner is entitled to a total sum of Rs.70,000/- (Rupees seventy thousand only) towards compensation, as against

Rs.51,000/- granted by the Tribunal, and the same is, accordingly, granted.

11. Since the rate of interest awarded by the Tribunal at 7.5% per annum is in accordance with the rate of interest awarded by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹, the same rate of interest is maintained on the entire amount awarded from the date of petition till realization.

12. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

13. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.



JUSTICE A.SHANKAR NARAYANA

04th November, 2016
v v

¹ 2013 ACJ 1403